



California Fair Political Practices Commission

January 8, 1988

Frances Jean Nelson
5286 Candlewick Court
Riverside, CA 92506

Re: Your Request for Advice
Our File No. A-87-324

Dear Ms. Nelson:

You have requested advice under the campaign disclosure provisions of the Political Reform Act.^{1/}

QUESTIONS

(1) A group has been organized for the purpose of supporting a recall effort against you. The group is soliciting funds and has held periodic "informational/fundraising" gatherings. Is this group required to report their fundraising efforts?

(2) The teachers unions in your college district have free, uncensored access to each unified district's inter-school mail service. In the past they have used this resource to campaign against their chosen causes. Does this constitute a reportable expenditure?

(3) Since your initial election in 1978, you have not maintained a campaign committee or collected or accumulated funds. Can individuals work independently, outside a formal structure, on your behalf?

CONCLUSIONS

(1) We are unable to provide you with advice on this question because we are prohibited from providing advice to a third party concerning another's obligations under the Act. However, we have provided general guidelines for campaign disclosure in the analysis section of this letter.

^{1/}Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Administrative Code Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Administrative Code.

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(2) We are unable to provide you with advice on this question for the reason stated above in (1). However, enclosed for your information are two Commission advice letters which may provide guidance on this question. (Anthony S. DaVigo, No. I-86-180, July 2, 1986; and John Strempfle, No. A-85-237, Dec. 16, 1985.)

(3) The Act does not prohibit an individual from engaging in campaign activity. However, individuals who receive or spend money to support or oppose a candidate or ballot measure may incur disclosure obligations discussed below. In addition, with certain exceptions, a candidate or committee on whose behalf goods or services are provided may be required to report receipt of the goods or services as "non-monetary contributions."

ANALYSIS

(1) ~~Elected officeholders, candidates for state and local elected offices, and "committees"~~ are subject to the Act's campaign provisions. Section 82013 defines "committee" as:

Any person or combination of persons who directly or indirectly does any of the following:

- (a) Receives contributions totaling one thousand dollars (\$1,000) or more in a calendar year;
- (b) Makes independent expenditures totaling one thousand dollars (\$1,000) or more in a calendar year; or
- (c) Makes contributions totaling ten thousand dollars (\$10,000) or more in a calendar year to or at the behest of candidates or committees....

A person (other than a candidate or officeholder) who receives money for "political purposes" has received "contributions," and must register and file disclosure reports as a "recipient committee" under Section 82013(a). Section 82015 and Regulation 18215 define "contribution."

With regard to a group which is independently raising money, i.e., is not raising money for or at the behest of a candidate or committee, the money raised will be deemed to be contributions if it is earmarked or is used for political purposes. Regulation 18215 defines "a payment for political purposes," in relevant part, as a payment:

- (1) For the purpose of influencing or attempting to influence the action of the voters for or against

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the nomination or election of a candidate or candidates, or the qualification or passage of any measure,...

A recall procedure is a type of "qualification" effort (Section 82043), and the term "candidate" includes an officeholder who is the subject of a recall procedure. (Section 82007.)

A payment which is made at the behest of a candidate or committee is a "contribution." A payment is "made at the behest" of a candidate or committee if it is:

... made under the control or at the direction of, in cooperation, consultation, coordination, or concert with, or at the request or suggestion of a candidate, controlled committee, official committee of a political party, or organization formed or existing primarily for political purposes.

(Regulation 18215(b).)

A payment for political purposes which is not made at the behest of a candidate or committee is an "independent expenditure." Section 82031 defines "independent expenditure" as:

An expenditure made by any person in connection with a communication which expressly advocates the election or defeat of a clearly identified candidate or the qualification, passage or defeat of a clearly identified measure, or taken as a whole and in context, unambiguously urges a particular result in an election but which is not made to or at the behest of the affected candidate or committee.

To summarize, a group which is receiving money must intend to spend the money for "political purposes" as defined in the Act and Commission regulations in order to incur any disclosure obligations under the Act's campaign provisions.

(3) The Act provides that a candidate who receives anything of value for which the candidate has not provided full and adequate consideration must report the goods or services received as "non-monetary contributions." (Section 82015.)

Section 82015 provides two exceptions to the definition of "contribution" which may be relevant to your question. The two exceptions are:

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The term "contribution" does not include a payment made by an occupant of a home or office for costs related to any meeting or fundraising event held in the occupant's home or office if the costs for the meeting or fundraising event are five hundred dollars (\$500) or less.

Notwithstanding the foregoing definition of "contribution," the term does not include volunteer personal services or payments made by any individual for his or her own travel expenses if such payments are made voluntarily without any understanding or agreement that they shall be, directly or indirectly, repaid to him or her.


(Section 82015.)

Therefore, individuals who provide services "at your behest" are not making contributions to you if the services they provide fit into one of the above exceptions. However, any goods or services provided at your behest which do not fit into one of the exceptions above are "contributions" which you must disclose. In addition, any person or group which provides goods or services which do not fit into one of the exceptions must file reports if they qualify as a "committee" pursuant to Section 82013(a) or (c).

If you have any questions about this letter, please contact me.

Sincerely,

Diane M. Griffiths
General Counsel

By  *Jeanne Pritchard*
Jeanne Pritchard *cw*
Division Chief
Technical Assistance and
Analysis Division

FRANCES JEAN NELSON
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December 21, 1987

Gregory Baugher, Executive Director
Fair Political Practices Commission
428 "J" Street, Suite 800
Sacramento, California 95714

Dear Mr. Baugher,

As the target of a current recall effort, there are three (3) questions which I need answered.

A teacher, Geraldine Woods, organized in April of 1987 for the initial recall attempt, a small committee. She then began soliciting funds and has held periodic "informational/fund raising" gatherings. These activities have continued through this fourth attempt to initiate a recall against me.

Question One: Should this group be reporting their fund raising efforts and amounts?

The teachers' unions in our College District have free, uncensored access to each unified district's inter school mail service. In the past they have used this resource to campaign for or against their chosen causes, all without public disclosure.

Questions Two: Does this constitute a reportable financial expenditure?

Since my initial election in 1978, I have not maintained a campaign committee nor have I collected or accumulated any funds.

Question Three: Can individuals work independently, outside a formal structure, on my behalf?

There is some urgency in getting answers to these questions. Thank you for your prompt reply.

Sincerely,

Frances Nelson

Frances Jean Nelson



California Fair Political Practices Commission

December 29, 1987

Frances Jean Nelson
5286 Candlewick Court
Riverside, CA 92506

Re: 87-324

Dear Ms. Nelson:

Your letter requesting advice under the Political Reform Act was received on December 24, 1987 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact me directly at (916) 322-5662.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to the information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Adm. Code Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

Jeanne Pritchard
Jeanne Pritchard

Chief

Technical Assistance and Analysis
Division

JP:plh